

FILED

JAN 05 2012

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

**DOROTHY BROWN
CLERK OF CIRCUIT COURT**

IN RE APPOINTMENT OF SPECIAL
PROSECUTOR

No. 2011 Misc. 46

The Hon. Michael P. Toomin

NOTICE OF MOTION

Please take notice that on March 6, 2012 the undersigned shall present the attached **Motion for Leave to File Brief *Amicus Curiae*** before the Honorable Michael P. Toomin, or any judge sitting in his stead, in the Criminal Courts Building at 2650 South California Avenue in Chicago, Illinois at 3:00 AM, or as soon as it may be heard.

Dated: 1-5-2012

By: Thomas H. Geoghegan
Thomas H. Geoghegan

Thomas H. Geoghegan
Michael P. Persoon
Despres, Schwartz & Geoghegan Ltd.
77 W. Washington St., Suite 711
Chicago, IL 60602
Phone: (312) 372-2511
Fax: (312) 372-7391
Firm ID No. 71223

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

FILED

JAN 05 2012

DOROTHY BROWN
CLERK OF CIRCUIT COURT

IN RE APPOINTMENT OF SPECIAL
PROSECUTOR

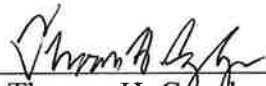
No. 2011 Misc. 46

The Hon. Michael Toomin

Motion of Better Government Association for Leave to File Brief as *Amicus Curiae*

The Better Government Association ("BGA"), by its undersigned counsel, respectfully moves this Court for leave to file the attached brief of BGA as *amicus curiae* with respect to the Petition to Appoint a Special Prosecutor in the Matter of the Death of David Koschman. BGA respectfully seeks such leave to file for the reasons stated in the first two paragraphs of BGA's brief as *amicus curiae*, attached hereto.

Dated: 1-5-2012

By: 
Thomas H. Geoghegan

Thomas H. Geoghegan
Michael P. Persoon
Despres, Schwartz & Geoghegan Ltd.
77 W. Washington St., Suite 711
Chicago, IL 60602
Phone: (312) 372-2511
Fax: (312) 372-7391
Firm ID No. 71223

FILED

JAN 05 2012

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

**DOROTHY BROWN
CLERK OF CIRCUIT COURT**

IN RE APPOINTMENT OF SPECIAL
PROSECUTOR

No. 2011 Misc. 46

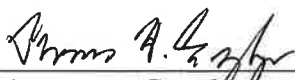
The Hon. Michael P. Toomin

CERTIFICATE OF SERVICE

Thomas H. Geoghegan, an attorney, certifies that a true and correct copy of the attached **Motion for Leave to File Brief *Amicus Curiae*** was served upon:

Anita Alvarez
Cook County State's Attorney
500 Richard J. Daley Center
Chicago, IL 60602

Dated: 1-5-2012

By: 
Thomas H. Geoghegan

Thomas H. Geoghegan
Michael P. Persoon
Despres, Schwartz & Geoghegan Ltd.
77 W. Washington St., Suite 711
Chicago, IL 60602
Phone: (312) 372-2511
Fax: (312) 372-7391
Firm ID No. 71223

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

FILED

JAN 05 2012

DOROTHY BROWN
CLERK OF CIRCUIT COURT

IN RE APPOINTMENT OF SPECIAL
PROSECUTOR

No. 2011 Misc. 46

The Hon. Michael Toomin

**BRIEF OF *AMICUS CURIAE* BETTER
GOVERNMENT ASSOCIATION IN SUPPORT OF
PETITION TO APPOINT A SPECIAL PROSECUTOR
IN THE MATTER OF THE DEATH OF DAVID KOSCHMAN**

The Better Government Association (“BGA”) respectfully submits this *amicus curiae* brief in support of the Petition filed by Nanci Koschman, Susan Pazderski, and Richard Pazderski for appointment of a Special Prosecutor, and for other relief (“the Petition”).

1. The BGA is a non-partisan group that works for integrity, transparency and accountability in government by exposing corruption and inefficiency; identifying and advocating effective public policy; and engaging and mobilizing the electorate to achieve authentic and responsible reform.

2. Based upon the allegations contained in the Petition, the BGA respectfully submits that this Court, pursuant to 55 ILCS 5/3-9008, should appoint a Special Prosecutor to examine the circumstances surrounding (1) the death of David Koschman in Chicago, Illinois on April 25, 2004; (2) the manner in which the investigation into Mr. Koschman’s death was conducted by the Chicago Police Department (“CPD”) and the office of the Cook County State’s Attorney; and (3) whether favoritism or other improper motives entered into and interfered with the proper conduct of the investigation.

3. The BGA respectfully submits that the State’s Attorney of Cook County is not qualified to conduct the investigation, owing to disabling conflicts of interest with regard to the

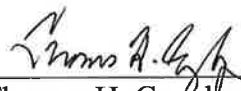
conduct of members of the State's Attorney's own office, as well as the conduct of members of the CPD, with whom staff members of the State's Attorney worked on the investigation of Mr. Koschman's death. In addition, the State's Attorney's staff works closely with and represents members of the CPD on a regular basis in both civil and criminal matters, including criminal investigations and indicted cases brought before this Court.

4. Specific allegations are contained in the Petition which illustrate the conflicts of interest of the State's Attorney, for example, paragraphs 20 through 22, 36, 38 and 43.

5. Should the Court grant the Petition, the BGA is available to serve as a friend of the Court with regard to the selection of the Special Prosecutor. The BGA is a disinterested party with regard to the matters that the Special Prosecutor will be investigating; the organization is interested only in ensuring that the investigation is conducted fairly and in such a way as to earn the public's trust. The BGA is confident that a qualified Special Prosecutor, possessing the necessary skills, experience, and independence for conducting this investigation—as well as the courage and fortitude to stand up for transparency and accountability in government—can be recruited from the members of the Cook County bar. The BGA will work diligently on behalf of the Court to that end.

Respectfully submitted,

Better Government Association

By: 
Thomas H. Geoghegan

Despres, Schwartz and Geoghegan, Ltd.
77 West Washington Street, Room 711
Chicago, Illinois 60602

January 5, 2012